

REMARKS

Claims 1, 10 and 12 have been amended to specifically recite that the polysaccharide resin is of certain characteristics. The amendments are supported by, inter alia, the original claim 11 and the paragraph bridging pages 9 and 10 of the specification. Claim 11 has been cancelled. Applicants further respectfully submit that these amendments do not raise any new issues of patentability and would place the application in condition for allowance. Entry of the claim amendments and favorable reconsideration of the claims are respectfully requested.

Applicants respectfully traverse the rejection of Claims 1 and 10 for alleged lack of written description. The Office Action agrees that the original specification, coupled with the Declaration by Mr. Bambino, establishes that the Lorama polysaccharides have a molecular weight of less than 50,000. The Office Action, however, continues to say that the claims are not limited to the Lorama polysaccharides, and thus lack written description under 35 U.S.C. § 112, ¶ 1. The Office Action appears to base this conclusion on the fact that the Lorama polysaccharides are only the preferred embodiments. Applicants respectfully submit that regardless whether the Lorama polysaccharides are a preferred embodiment or not, it was a representative of polysaccharides with the molecular weight recited in the Claims and an ordinarily skilled artisan would recognize that the applicants had possession of the claimed invention at the time of the filing of the application.

In order to expedite prosecution, without acquiescing to the assertions in the Office Action, applicants have amended claims 1 and 10, as well as 12, to recite that the claimed polysaccharide resins further have the characteristics of being chemically modified and having a dextrose equivalent of between 0.1 and 100. It is respectfully submitted that these amendments have rendered the claim rejections under 35 U.S.C. § 112 ¶ 1 moot.

The Office Action further rejected all previously pending claims for alleged obviousness under 35 U.S.C. § 103(a) over Derrick (U.S. Pat. No. 3,893,847). Applicants respectfully traverse. The Office Action concedes that Derrick does not disclose polysaccharides having a molecular weight of less than 50,000, but asserts that they are “close enough” without any supporting evidence. It is respectfully submitted that this rejection is improper and the Office Action failed to satisfy its initial burden of establishing a *prima facie* case of obviousness.

Again in order to expedite prosecution without acquiescing to the assertions in the Office Action, applicants propose to further amend the claims to recite that polysaccharide content of the claims is “from 0.5 to 8 wt. %” based on the weight of the coal dust. Thus, the claimed range no longer overlaps with that of Derrick, overcoming the alleged *prima facie* case of obviousness with regard to the content of the polysaccharide. Accordingly, applicants respectfully submit that the claims as amended are no longer obvious over Derrick.

In summary, in view of the above claim amendments and arguments, all claims are in condition for allowance. Applicants earnestly solicit an early indication from the Examiner to that effect.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #080395.52533US).

Respectfully submitted,

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